IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 30772 of 2007(L)

PETITIONER:

ALEYKUTTY VARGHESE, W/O. LATE KURUVILA VARKEY, AGED 79, ADIPUZHA HOUSE, MARANKULAM, CHUNGAPPARA P.O., PATHANAMTHITTA DISTRICT.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS:

1. THE DISTRICT SUPERINTENDENT OF POLICE, PATHANAMTHITTA.

2. THE SUB INSPECTOR OF POLICE, PERUMPETTY POLICE STATION, PATHANAMTHITTA.

3. JOSEPH A.V., ADIPUZHA HOUSE, MARANKULAM, CHUNGAPPARA, PATHANAMTHITTA.

4. SHEELA JOSEPH, W/O. JOSEPH, DO. DO.

5. ANTONY THOMAS, FATHIMA SADANAM, DO. DO.

BY ADV. SRI.V.SANTHARAM
SRI.LAKSHMEESH.S.KAMATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 30772/2007

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF RECEIPT OF THE PETITION DT. 5.5.07

EXT. P2 TRUE COPY OF ACKNOWLEDGMENT BY THE POLICE DT. 23.5.07

EXT. P3 TRUE COPY OF DO. DO. DT. 29.5.07

EXT. P4 TRUE COPY OF DO. DO. DT. 29.9.07

EXT. P5 TRUE COPY OF PETITION DT. 18.5.07 BY PETITIONER BEFORE THE FIRST RESPONDENT

EXT. P6 TRUE COPY OF RECEIPT DT. 23.5.07

EXT. P7 TRUE COPY OF RECEIPT OF THE POLICE DT. 4.10.07

EXT. P8 TRUE COPY OF COMPLAINT DT.24.8.07 FILED BY PETITIONER BEFORE THE WOMEN'S COMMISSIONERATE

RESPONDENT'S EXHIBITS:

EXT.R4(a) TRUE COPY OF COMPLAINT DT. 9.1.07 BEFORE THE DISTRICT COLLECTOR, PATHANAMTHITTA FILED BY THE 4TH RESPONDENT

EXT.R4(b) TRUE COPY OF COMPLAINT FILED DT. 13.4.07 BEFORE THE FIRST RESPONDENT BY THE 4TH RESPONDENT

EXT.R4(c) TRUE COPY OF COMPLAINT FILED BY THE 4TH RESPONDENT DT. 24.4.07 BEFORE THE HUMAN RIGHTS COMMISSION

EXT.R4(d) TRUE COPY OF THE NOTICE DT. 5.5.07 ISSUED BY KERALA WOMEN COMMISSION

EXT.R4(e) TRUE COPY OF THE COMPLAINT DT. 20.5.07 FILED BY THE 4TH RESPONDENT BEFORE THE 2ND RESPONDENT

EXT.R4(f) TRUE COPY OF THE COMPLAINT DT. 22.5.07 FILED BY THE 3RD RESPONDENT BEFORE THE DIRECTOR GENERAL OF POLICE, TRIVANDRUM

EXT.R4(g) TRUE COPY OF REPRESENTATION DT. 23.8.07 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE CHIEF MINISTER OF KERALA

EXT.R4(h) TRUE COPY OF THE COMPLAINT DT. 23.5.07 FILED BY THE 4TH RESPONDENT BEFORE THE CHAIRPERSON OF THE COMMITTEE FOR THE WELFARE OF WOMEN AND CHILDREN

EXT.R4(i) TRUE COPY OF THE COMPLAINT DT. 12.5.07 FILED BY THE 4TH RESPONDENT BEFORE THE DISTRICT PROTECTION OFFICER, PATHANAMTHITTA

EXT.R4(j) TRUE COPY OF THE NOTICE DT. 19.7.07 ISSUED TO THE 4TH RESPONDENT FROM JFCM, THIRUVALLA

EXT.R4(k) TRUE COPY OF THE COMPLAINT DT. 1.10.07 FILED BY THE 4TH RESPONDENT BEFORE THE 2ND RESPONDENT

EXT.R4(l) TRUE COPY OF THE JUDGMENT DT. 27.7.07 IN WPC 15319/07 FILED BY THE 4TH RESPONDENT

EXT.R4(m) TRUE COPY OF THE ORDER IN IA 387/07 IN OS 252/07 FILED BY THE PETITIONER'S ELDER SON BEFORE THE MUNSIFF'S COURT, THIRUVALLA

EXT.R4(n) TRUE COPY OF THE PLAINT DT. 17.4.07 IN OS 253/07 FILED BY THE 3RD AND 4TH RESPONDENTS BEFORE THE MUNSIFF'S COURT, THIRUVALLA

EXT.R4(o) TRUE COPY OF THE INJUNCTION ORDER IN IA 403/07 IN OS 253/07 FILED BY THE 3RD AND 4TH RESPONDENTS

/TRUE COPY/

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

W.P.(C)No. 30772 of 2007 L

JUDGMENT

Balakrishnan Nair, J.

The petitioner has approached this Court seeking police protection against the alleged criminal actions of her son and daughter-in-law, who are respondents 3 and 4 herein. According to the petitioner, the fifth respondent, who is a relative of the fourth respondent is also hand in glove with them in harassing her. She is residing in the family house, which now belongs to the third respondent. Earlier, her elder son with his family was also residing there. Respondents 3 and 4 were at Kochi. On the transfer of the third respondent to Jhansi, he and his family started residing in the family house. Thereupon, the elder son and his family shifted. Her son and the fourth respondent have manhandled her, it is submitted. On the basis

of a complaint filed by the petitioner a crime has been registered by the police. Now, the third respondent is in Jhansi. But, the fourth respondent continues to live in the family house and harassing her. Therefore, she moved the police for protection. When no action was taken by the police, she has filed this writ petition seeking a direction to the police to give protection to her life.

2. Respondents 3 and 4 have filed a counter affidavit. They have a different story to tell. Though the house is the family house, it was purchased by the third respondent. The adjoining property also belongs to him. The entire usufructs from the property were taken by the mother and the elder son. Since the third and fourth respondents came there and started taking the usufructus belonging to them, the dispute arose. The petitioner is harassing the fourth respondent and her children. The elder son is still residing in

the family house. This is a family dispute. All the allegations of the petitioner are unfounded. Therefore, they pray for dismissal of the writ petition.

3. The learned Government Pleader, upon instructions, submitted that this being a family dispute, the police did not interfere.

4. We feel, having regard to the nature of the dispute, the police cannot be assigned any role in this. But, if commission of any cognizable offence is reported, we are sure that the police will take appropriate action.

With the above observation, the writ petition is closed.

(K.Balakrishnan Nair, Judge)

3rd December, 2007

(K.P.Balachandran, Judge)

tkv